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Contracting

NONAPPROPRIATED FUND CONTRACTING

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements AFR 64-3, *Nonappropriated Fund Contracting*. It provides guidance and procedures for Air Force nonappropriated fund (NAF) contracting. Purchasing support to other than qualifying Department of Defense (DoD) NAF instrumentalities is prohibited. It describes the responsibilities of the Air Force NAF Procurement Office (AFNAFPO), NAF Resource Management Section (NAFRMS), and NAF Contracting Office. Except for support provided by the servicing contracting officer to NAF activities, this instruction does not apply to appropriated fund contracting activities. AFMAN 64-302, *Nonappropriated Fund Contracting*, is directive on NAF contracting. Until AFMAN 64-302 is published, the provisions of AFR 176-9 that this AFI does not specifically revoke will remain effective.

SUMMARY OF REVISIONS

This is the first issuance of AFI 64-301, revising AFR 176-9.

1. Responsibilities of the AFNAFPO. The AFNAFPO formulates and oversees NAF contracting procedures throughout the Air Force. Its responsibilities include:

- 1.1. Conducting the AF NAF Central Purchasing Program, detailed in AFMAN 64-302.
- 1.2. Providing the structure for NAF contracting training and issuing NAF contracting warrants. All warrants for NAF contracting officers are issued and monitored by AFNAFPO.
- 1.3. Determining if installation and repair services are available in the local area before offering an alternative Commander's Smart Buy Program (CSBP).
- 1.4. Exclusive purchasing of the following:
 - ADP hardware and software.

- Slot machines.
- New, used, salvaged and trade-in aircraft, aircraft engines, and avionics.
- Interior design projects, including carpet.
- Essential Product Program (EPP).

1.5. Purchasing items under the CSBP and the EPP to establish the most economical purchase price.

1.6. Approving ratification actions of \$25,000 or more.

1.7. Requesting the Defense Contract Audit Agency (DCAA) to provide audit service to evaluate price proposals when the negotiated contract is estimated to be more than \$500,000 or on cost-reimbursement or incentive-type contracts when the amount paid is based on the contractor's costs.

2. Responsibilities of the Installation Commander. The installation commander oversees nonappropriated fund instrumentalities (NAFI) at the installation. In this capacity, the commander:

- 2.1. Authorizes promotional activities involving the demonstration of commercial products as long as properly controlled to prevent irregularities.
- 2.2. Approves ratification actions between \$500 and \$2,500.
- 2.3. Approves concessionaire contracting.

3. Responsibilities of the Services (SV) Commander. The SV commander directs the overall operation of Services facilities and services at an installation. The SV commander's contracting responsibilities include:

- 3.1. Presiding over an annual meeting of key NAF contracting personnel and the base contracting management team to identify methods of improving NAF contracting procedures.
- 3.2. Ensuring that NAF contracting personnel receive the proper procurement training, including small purchase policies and procedures, and standards of conduct.
- 3.3. Approving entertainment purchases overseas.
- 3.4. Determining when interior design projects that include appropriated funds should be procured by the SCO to preserve design integrity.
- 3.5. Ensuring that SV acquisition planning allows for adequate purchasing and delivery lead times.
- 3.6. Sending purchase requests to the AFNAFPO.
- 3.7. Selecting contracting officers.

4. Responsibilities of the NAF Contracting Officer. This instruction authorizes the NAF contracting officer, at the installation level, to make Government purchases using NAFs. The contracting officer has limited delegation authority. NAF Contracting Officers:

- 4.1. Purchase controlled medical substances for the base veterinarian when the veterinarian has been assigned a Drug Enforcement Agency (DEA) number.
- 4.2. Forward contracts for legal reviews, using the same thresholds applicable to appropriated fund contracts at the base, unless otherwise required by AFMAN 64-302.

- 4.3. Make purchases from the AFNAFPO EPP, except in emergencies. Use AFNAFPO NPAs to buy non-EPP items except in emergencies or when lower prices are available through other methods.
- 4.4. Are exempt from mandatory purchase requirements of General Services Administration (GSA), Defense Logistics Agency (DLA) or standard Air Force contracts.
- 4.5. Settle contractual disputes.

5. Responsibilities of the Servicing Contracting Office (SCO). The SCO works directly with the SV commander and the NAF contracting officers to ensure an effective NAF contracting program. Air Force contracting:

- 5.1. Provides, upon request, contracting support and technical purchasing assistance.
- 5.2. Performs an annual oversight review of NAF contracting at the installation.
- 5.3. Conducts NAF contract training upon request.
- 5.4. Performs purchases for NAF requirements other than those specifically assigned to the AFNAFPO or the NAF Contracting Officer. The SCO is authorized to write contracts funded in whole or in part with NAFs.
- 5.5. Includes NAF requirements in acquisitions for services common to both appropriated and nonappropriated activities, after consultation with the SV commander.
- 5.6. Processes all debarment and suspension actions.
- 5.7. Provides communication services contracting support to the NAF activities.
- 5.8. Synopsizes NAF requirements to obtain adequate competition.
- 5.9. Addresses emergency contracting support to NAF activities in the SCO's contingency contracting plan.

6. Responsibilities of the SCO and the NAF Contracting Officer. The following responsibilities apply to both SCO and NAF contracting officers, whenever one is charged with awarding and administering a NAF contract. Contracting officers:

- 6.1. Solicit oral and written quotations from a reasonable number of sources to promote competition to the maximum extent possible, considering price reasonableness and contracting office administrative costs. Contracting officers may not engage in auction bidding. Contracting officers may purchase commercial entertainment noncompetitively, by group or act name.
- 6.2. When practical, rotate repeat orders or BPA calls among low price vendors.
- 6.3. Before signing any contract, evaluate the price quoted or estimated to determine price reasonableness, especially for indefinite quantity contracts.
- 6.4. Use GSA, DLA, AF NAF Purchasing Agreements, and Prepriced Blanket Purchase Agreements as much as possible.
- 6.5. Contracting officers must issue all solicitations over \$25,000 in writing, except for emergency buys, which must be documented in the contract file. They may use oral solicitations for requirements under \$25,000 if it is in the best interest of the government. Use competitive negotiation as the pre-

ferred method of contracting. Hold written and oral discussions with all responsible offerors who submit quotations or proposals within the competitive range.

6.6. Administer purchase orders, delivery orders, blanket delivery orders and blanket purchase agreements. Contracting officers will number and sign purchase orders.

6.7. Provide contracts for individual services and nonpersonal services, using the restrictions in AFMAN 64-302.

6.8. Administer contracts as provided in AFMAN 64-302.

7. Responsibilities of the Servicing Staff Judge Advocate (SJA). The SJA, whether located at base or MAJCOM level, provides legal oversight of all NAF contracting activities. In this capacity, they determine:

7.1. Whether a conflict of interest or standards of conduct violation exists.

7.2. If contracting actions comply with both Federal Acquisition Regulation (FAR) and Air Force NAF guidelines.

7.3. If proposed ratifications are legally sufficient.

7.4. Whether the proposed resolution of a contract dispute is appropriate. They will forward their written opinion to HQ Air Force Materiel Command.

RICHARD E. HAWLEY, Lt General, USAF
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for Acquisition

Attachment 1

MANDATORY NAF CONTRACTING REQUIREMENTS

A1.1. NAF contracts must be in writing and name a contracting office.

A1.2. Air Force Personnel, including military and APF and NAF civilian employees, are subject to the standards of ethical conduct found in Part 3 of the FAR and Department of Defense (DoD) Joint Ethics Regulation, DoD Directive 5500.7, *Standards of Conduct*, May 6, 1987, with Changes 1 and 2. They must also comply with the provisions of the Procurement Integrity Act when engaged in the procurement process. This act requires procurement officials to certify that they are familiar with, not engaged in, and will report prohibited conduct outlined in this act.

A1.3. NAF contracting must comply with Mandatory and Optional FAR requirements as listed in AFMAN 64-302.

A1.4. Protest rules for NAF purchases are essentially the same as those for appropriated fund contracts. Contracting officers must be familiar with FAR Part 33 and exceptions in AFMAN 64-302.

A1.5. The general provisions and certifications in AFMAN 64-302 are mandatory for NAF contracts.

A1.6. Contracts for individual services must not establish an employer-employee relationship. Use the Internal Revenue Service's 20 common law factors in AFMAN 64-302 to decide whether a particular contract for individual services constitutes personal services.

A1.7. As an instrumentality of the government, a NAFI has the immunities and privileges of the Federal Government under the Constitution of the United States; Federal laws; and international laws, treaties, and agreements. A NAFI is immune from most direct state taxation and state laws, such as licensing and price controls, which would interfere with the NAFI performing its US Government functions. As such, NAF contracts are US Government contracts; however, they do not obligate appropriated funds of the United States.

A1.8. Solicit oral or written quotations from a reasonable number of sources to promote competition to the maximum extent practicable and ensure that the purchase is advantageous to the NAFI, price and other factors considered. Determine reasonableness of price for every acquisition regardless of the dollar amount.

A1.9. Public Law 85-536, July 18, 1958, Small Business Act of 1953 as amended, does not apply to NAF contracting. Air Force personnel may engage in NAF contracting to small business firms, including small disadvantaged business concerns. Contracting officers cannot set-aside NAF contracts.

A1.10. Purchasing supplies and services, enumerated in the Procurement List, from the Blind and Other Severely Handicapped and the Schedule of Products made in Federal Penal and Correctional Institutions is binding on NAF contracts.

A1.11. The Brooks Act and the Federal Information Requirements Management Regulation do not apply to NAF contracting.

A1.12. For AFNAFPO and SCO only, the time requirements specified in Public Law 98-72 do not apply to NAF synopsis. NAF synopsis requirements are in AFMAN 64-302.

A1.13. Contracting officers must be sure that firms or individuals named in the Consolidated List of Debarred, Suspended, and Ineligible Contractors are not solicited for offers or quotations or awarded contracts except as authorized by the specific type of listing (see FAR subpart 9.4 for procedures).